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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,769	11/30/2005	John Gerard Beerends	05-1018	6636
20306 7590 03/27/2008 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER				
LIU, BEN H				
ART UNIT		PAPER NUMBER		
2616				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/558,769

Applicant(s)

BEERENDS ET AL.

Examiner

BEN H. LIU

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on November 30th, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 3 and 9, the phrase "e.g." renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Veres et al. (U.S. Patent Number 6,807,156).

For claim 1, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer comprising measuring at least one system performance indicator during transfer of a predefined data type specimen (*see column 4 lines 28-38, which recite*

monitoring and determining the quality of service in a network), and calculating the perceived quality indicator for said predefined data transfer type and for at least one other data transfer type from said measurement (*see column 4 lines 44-53, which recite service dependent analysis to determine the quality of service perceived by subscribers for different data transfer types such as FTP and WWW*).

For claim 2 and 11, Veres et al. disclose a method and system for determining a perceived quality indicator for end-to-end data transfer in which the at least one system performance indicator comprises at least one lower network layer performance indicator further comprising measuring at least one other lower network layer performance indicator and mapping the at least one other lower network layer performance indicator to the perceived quality indicator (*see column 4 lines 62-67, which recite using quality of service parameter metrics to gain measurements about user perceived quality of service*).

For claim 3, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the mapping is a linear mapping, e.g. a linear two-dimensional mapping (*see column 4 lines 62-67, which recite using two or more parameters used to determine the quality of service perceived by the user*).

For claim 4, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the at least one lower network layer performance indicator is a modified lower network layer performance indicator (*see column 5 lines 26-30, which recite a monitored subset performance indicator that is changed to remain representative of active subscribers*).

For claim 5, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which integer values of the at least one lower network layer performance indicator are mapped to real values (*see column 16 lines 15-31, which recite mapping integer values of a performance indicator into real values of the delay variance*).

For claim 6, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the at least one lower network layer performance indicator is the throughput speed, and the quality indicator is derived from the measured throughput speed using a moving window averaging estimation, in which the size of the moving window corresponds to the at least one other data transfer type (*see column 11 lines 3-22, which recite deriving the average download throughput based upon the download throughput quality indicator*).

For claim 7, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which a final quality indicator is calculated from the percentage increase in the quality indicator for the at least one other data transfer type (*see column 11 lines 3-22, which recite deriving the delay variation quality indicator from the delay quality indicator*).

For claim 8, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the method further comprises the step of analyzing the contribution of each of the at least one lower network layer performance indicator (*see column 15 lines 49-56, which recite the most important quality of service performance indicators*).

For claim 9, Veres et al. disclose a method for determining a perceived quality indicator for end-to-end data transfer in which the predefined data transfer type specimen is a FTP

download of a large size data file, e.g. 512 Kbyte (*see column 11 lines 34-45, which recite measuring the performance indicators for microflows including FTP*)).

For claim 10, Veres et al. disclose a measurement system for determining a quality indicator for end-to end data transfer comprising a data network analysis system for measuring at least one lower network layer performance indicator using a predefined data transfer specimen (*see column 4 lines 28-38, which recite monitoring and determining the quality of service in a network*), in which the measurement system is further equipped with processing means which are arranged for deriving the perceived quality indicator for at least one other data transfer type from the at least one lower network layer performance indicator (*see column 4 lines 44-53, which recite service dependent analyses to determine the quality of service perceived by subscribers for different data transfer types such as FTP and WWW*)).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (*See form PTO-892*).
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEN H. LIU whose telephone number is (571)270-3118. The examiner can normally be reached on 9:00AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BL

/FIRMIN BACKER/
Supervisory Patent Examiner, Art Unit 2616